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WESTERN DISTRICT OF LOUISIANA

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION

CODY MOREAUX, ET AL.

:

DOCKET NO. 2:09-cv-396

VS.

:

JUDGE MINALDI

STATE FARM MUTUAL
AUTOMOBILE INSURANCE CO., ET
AL.

:

MAGISTRATE JUDGE KAY

REPORT AND RECOMMENDATION

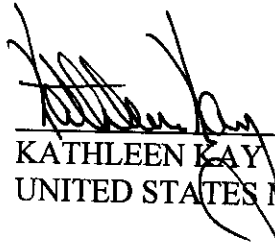
According to LR 41.3W and Fed. R. Civ. P. 4(m), “[a] civil action may be dismissed . . . for lack of prosecution . . . [w]here no service of process has been made within 120 days after filing of the complaint” Plaintiffs filed the instant suit on January 29, 2009 and issued summons on all defendants save defendant Ryan Thomas. As of June 2, 2009, plaintiffs have not effectuated service on defendant Thomas. It is THEREFORE RECOMMENDED that plaintiff’s claims against defendant Thomas be DISMISSED WITHOUT PREJUDICE.

Pursuant to LR41.3W, plaintiff is allowed ten calendar days from the mailing of this notice to file evidence of good cause for failure to act. Additionally, under the provisions of 28 U.S.C. § 636(b)(1)(C) and Fed. R. Civ. P. 72(b), parties aggrieved by this recommendation have ten (10) business days from service of this report and recommendation to file specific, written objections with the Clerk of Court. A party may respond to another party’s objections within ten (10) days after being served with a copy of any objections or response to the District judge at the time of filing.

Failure to file written objections to the proposed factual findings and/or the proposed legal conclusions reflected in this Report and Recommendation within ten (10) days following

the date of its service, or within the time frame authorized by Fed. R. Civ. P. 6(b), shall bar an aggrieved party from attacking either the factual findings or the legal conclusions accepted by the District Court, except upon grounds of plain error. *See Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415 (5th Cir. 1996).

THUS DONE AND SIGNED in Chambers at Lake Charles, Louisiana, this 2nd day of June, 2009.


KATHLEEN KAY
UNITED STATES MAGISTRATE JUDGE